

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

WILLIAM HENRY SEAY

Plaintiff,

v.

JO ANNE BARNHART,
Commissioner of Social Security

Defendant.

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1:06-CV-88 (WLS)

ORDER

Before the Court is a Report and Recommendation from United States Magistrate Judge Richard L. Hodge, filed January 4, 2007. (Doc. 6). It is recommended that the Commissioner's Motion to Dismiss (Doc. 4) be granted. (Doc. 6). Defendant filed a timely objection to the Report and Recommendation on January 24, 2007. (Doc. 7).

In the Recommendation, it was found that Plaintiff's request for Appeals Council review of a partially favorable September 14, 2004 Administrative Law Judge ("ALJ") decision remains pending at the Office of Disability Adjudication and Review. (Doc. 6). It was therefore found that no final decision, such as that term is defined by 42 U.S.C. § 405(g), has been entered by the Appeals Council. *Id.* Therefore, pursuant to Section 405(g), it was found that the Court does not have jurisdiction to review the Commissioner's decision. *Id.* Accordingly, it is recommended that the Commissioner's Motion to Dismiss (Doc. 4) be granted.

In his objection, Plaintiff does not address the pertinent findings in the Recommendation regarding jurisdiction, rather he asserts substantive issues which cannot be addressed by the Court until and unless it has jurisdiction to do so. (Doc. 7). Accordingly, Plaintiff's objection is **OVERRULED**.

Upon review and consideration upon the record, the Court finds that said Report and Recommendation (Doc. 6) should be, and hereby is, **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein, together with the findings made and conclusions reached herein. The Commissioner's Motion to Dismiss (Doc. 4) is hereby **GRANTED**.

SO ORDERED, this 1st day of February, 2007.

/s/W. Louis Sands
THE HONORABLE W. LOUIS SANDS,
UNITED STATES DISTRICT JUDGE